D.P.U. 95-46

Application of Mass-Save, Inc., pursuant to G.L. c. 164 App., §§ 2-1 through 2-10 and 220 C.M.R. §§ 7.00 et seq., for approval by the Department of Public Utilities of the Company's proposed operating budget for the Residential Energy Conservation Service program for fiscal year 1996 (July 1, 1995 through June 30, 1996).

APPEARANCES: James K. Brown, Esq.
Foley, Hoag & Eliot
One Post Office Square
Boston, Massachusetts 02109
FOR: MASS-SAVE, INC.
Petitioner

Christine Constas Erickson, Esq.
100 Cambridge Street
Boston, Massachusetts 02202
FOR: DIVISION OF ENERGY RESOURCES
Intervenor

I. INTRODUCTION

On May 1, 1995, pursuant to G.L. c. 164 App., §§ 2-1 through 2-10 and 220 C.M.R. §§ 7.00 et seq., Mass-Save, Inc. ("MSI" or "Company") filed with the Department of Public Utilities ("Department") a petition for approval by the Department of the Company's proposed operating budget of $4,586,424 for its residential energy conservation service ("ECS") program for the fiscal year July 1, 1995 through June 30, 1996 ("FY 1996") (Exh. MSI-1, at 3, 17).[1] The petition was docketed as D.P.U. 95-46.

Pursuant to notice duly issued, a hearing was held at the offices of the Department on May 25, 1995. The Department granted the petition for leave to intervene filed by the Commonwealth of Massachusetts, Executive Office of Economic Affairs, Division of Energy Resources ("DOER"). No other petitions for leave to intervene were filed.

In support of its petition, the Company sponsored the testimony of one witness, Michael H. Plasski, president and treasurer of MSI. DOER sponsored the testimony of Bruce Ledgerwood, program manager for the Massachusetts residential ECS program. The Company submitted 32 exhibits, and responded to two Department record requests. DOER submitted two exhibits.

MSI is an independent, non-profit corporation sponsored by investor-owned electric and gas utilities and municipal light departments in Massachusetts. MSI was formed in response to the mandates of the National Energy Conservation Policy Act of 1978 ("NECPA") and St. 1980, c. 465. MSI provides ECS services to the following investor-owned utilities: (1) Blackstone Gas

---

1 The ECS program consists of a one-to-four unit residential plan and a multifamily building program.

Company; (2) Cambridge Electric Light Company; (3) Colonial Gas Company (Cape Cod and Lowell Divisions); (4) Commonwealth Electric Company; (5) Eastern Edison Company; (6) Essex County Gas Company; (7) Fall River Gas Company; (8) Fitchburg Gas and Electric Light Company; (9) Massachusetts Electric Company; (10) Nantucket Electric Company; (11) North Attleboro Gas Company; and (12) Western Massachusetts Electric Company (Exh. MSI-26).[2] MSI also provides ECS services to 17 municipal utilities.

II. STATUTORY HISTORY

In response to the mandates of the National Energy Conservation Policy Act of 1978, the Commonwealth of Massachusetts enacted St. 1980, c. 465, codified as G.L. c. 164 App., §§ 2-1 through 2-10, to establish the residential ECS program and to require all electric and gas utilities in Massachusetts to offer on-site energy conservation and renewable energy resource services to their customers, thereby encouraging citizens to take steps to immediately improve the energy efficiency of all residential buildings in Massachusetts. G.L. c. 164 App., § 2-2. The statute requires each utility to provide certain energy conservation services through individual or joint efforts in conformance with an overall state plan. Id. § 2-6(b).

Pursuant to the statute, DOER must adopt a state plan and promulgate regulations necessary to implement that plan.[3] Id. § 2-3(a). Specifically, DOER is responsible for:

---

2 MSI also provides multi-family building survey services to these investor-owned utilities and to (1) Bay State Gas Company, (2) Berkshire Gas Company, (3) Boston Gas Company, and (4) Commonwealth Gas Company (Exh. MSI-26).

3 Prior to 1989, DOER required utilities to offer a commercial energy conservation service program for businesses and other commercial customers; however, DOER eliminated that requirement when the Department-mandated demand side management programs, geared (continued...)

(1) establishing residential energy conservation goals ("goals"); (2) establishing ECS program guidelines; (3) monitoring the implementation of the program requirements; and (4) overseeing the implementation of the state plan by approving a utility implementation plan ("UIP"). Each utility must submit a UIP to DOER annually. After a utility receives annual approval of its UIP from DOER, the utility must submit its proposed ECS program operating budget and proposed ECS surcharge for the upcoming fiscal year to the Department for review. Id. § 2-7(b).

III. COMPANY PROPOSAL

A. Establishment of ECS Program Goals

According to DOER, key issues for the FY 1996 ECS program are (1) to begin the first comprehensive evaluation of the ECS program, and (2) to provide energy conservation services which eliminate duplication of service with utility company DSM programs (Exh. DOER-2, at 3-4). DOER outlined goals for three areas of the ECS program in FY 1996: (1) numerical targets for audits and equivalent services; (2) coordination of ECS services with Weatherization Assistance Programs ("WAP");[4] and (3) appliance efficiency education service ("AEES")[5]

(...continued)
toward commercial customers, were implemented. Commonwealth Gas Company, D.P.U. 92-116, at 3 (1992).

4 WAP, operated by the Executive Office of Communities and Development, provides conservation measures and education to low income customers (Exh. DOER-2, at 3).

5 AEES is the delivery of fuel-blind, site specific, appliance efficiency education at the time of the audit visit which includes, at a minimum: (1) completion and explanation of an appliance inventory checklist indicating the appliances in the home and the estimated energy use of the five highest users; (2) delivery of written and verbal education about how to use appliances efficiently; (3) delivery of written education about estimated energy costs for some common household appliances; and (4) delivery of written and verbal
(continued...)

delivery, as appropriate (id. at 2-3). In addition, DOER emphasized that utilities, in implementing their ECS programs, should pay special attention to (1) customer screening procedures, (2) quality control reporting, and (3) the content and distribution schedule of the ECS program announcement (id. at 5-6).

DOER established specific goals for the delivery of audits and equivalent services (id. at 1 and Att. 1). Equivalent services are designed to assist customers in pursuing recommended conservation measures and provide educational and information services (id.). The equivalent services include: (1) demonstration material installations ("DMI"),[6] (2) major work order ("MWO") specification development services,[7] (3) low-cost work order ("LCWO") specification development services,[8] (4) bulk purchasing ("BP") services,[9] (5) AEES, (6) contractor arranging services ("CAS"),[10] and (7) post-installation inspections ("PII")[11] in homes where conservation

---

(...continued)
education about how and why to purchase energy efficient appliances (Exh. DOER-2, Att. 2).

[6] During site visits, auditors install low-cost energy conservation materials, not to exceed $30 in value, to demonstrate the proper application and installation of the materials (Exh. DOER-2, Att. 2). Auditors choose materials based on the fuel-blind, specific energy conservation needs of a dwelling as determined during the audit (id.).

[7] A MWO specification is the preparation of a job specification sheet for a major energy conservation measure(s) recommended during the audit which allows a customer to: (1) install the measure(s) personally; (2) hire a contractor to install the measure(s); or (3) obtain complete and accurate bids from contractors to install the measure(s), using the ECS contractor arranging service (Exh. DOER-2, Att. 2).

[8] Purchase specifications are prepared for materials for low-cost conservation measures affecting infiltration, domestic hot water use, and lighting (Exh. DOER-2, Att. 2).

[9] BP service provides access to bulk bidding or group purchasing for conservation materials of the same type and quality demonstrated during an audit (Exh. DOER-2, Att. 2).

(continued...)

measures were installed following an ECS audit (id., Att. 2, at 1-6). An eighth, optional service is the ECS/WAP coordination service (id., Att. 2, at 7-8).

Equivalent services goals are established as a percentage of audit recipients who should pursue equivalent services following an audit (id., Att. 1). As in prior fiscal years, ECS audit and equivalent services goals do not represent a ceiling to customer participation (id. at 2). See Mass-Save, Inc., D.P.U. 91-28, at 4-5 (1991).

DOER stated that goals for audits and equivalent services for each ECS service provider were based on requests for services over the last three years and on the anticipated impact of DSM programs on the production of audits and equivalent services (id.). DOER indicated that, although minor adjustments have been made to audit and equivalent services levels for FY 1996 where appropriate, goals for the delivery of ECS services were set at similar levels as in the fiscal year July 1, 1994 through June 30, 1995 ("FY 1995") for all but one ECS provider (id.). With respect to the goals for the multifamily building ("MFB") program, DOER stated that it established levels of production activity for FY 1996 that were similar to those established for FY 1995 (id. at 3).

DOER also stated that where DSM programs offer customers assistance with major conservation measures, demand might be limited for certain ECS services, specifically CAS and PII (id. at 2). DOER therefore has given ECS program providers the option of eliminating the

---

(...continued)

[10] CAS provide technical assistance and guidance to a customer in selecting a contractor to install recommended conservation measures (Exh. DOER-2, Att. 2).

[11] DOER-approved inspectors determine on-site whether energy conservation measures that were installed are performing properly to save energy (Exh. DOER-2, Att. 2).

equivalent service goals for CAS and PII where comparable services are being provided through the utility's DSM program (id.). DOER stated, however, that program providers must still maintain the capacity to provide CAS or PII for those customers who do not qualify for, or do not wish to participate in, the DSM program, and that, in addition, the ECS provider needs to ensure that ECS and DSM costs are properly allocated (id.).

B. Audit and Equivalent Service Goals

DOER established the Company's FY 1996 audit goal at the level of 29,500 audits (Exhs. MSI-1, at 14; MSI-24, Att. 1 at 2). The Company stated that the FY 1996 audit goal was the same as that established in FY 1995 (RR-DPU-1). DOER established the equivalent service goals for 1-to-4 unit homes as the following percentages of all customers audited: (1) DMIs - 95 percent; (2) MWOs - 30 percent; (3) LCWOs - 75 percent; (4) BPs - five percent; (5) AEES delivery - ten percent; (6) CAS - one percent; and PII - one percent (Exh. MSI-24, Att. 1 at 2).

DOER also established a MFB audit goal for MSI at 500 audits, which is the same level as last year (Exhs. MSI-24, Att. 1 at 2; RR-DPU-1). In addition, MSI indicated that its ECS/WAP coordination services goal is 450 for FY 1996 (Exh. MSI-1, at 14).

The proposed FY 1996 budget for each ECS service provider is based on established ECS goals, detailed in the UIP, that specify levels of effort required for each individual utility or group of utilities (Exh. DOER-1, at 2-3). DOER stated that it found the Company's proposed budget consistent with the ECS program objectives and the approved UIP (id. at 4).

C. Comparative Analysis

The Company submitted to the Department an ECS program provider budget comparison ("budget comparison") which contrasted the Company's anticipated costs for ECS implementation during FY 1996 with the anticipated costs of five other ECS providers over the same period (Exh. MSI-30).[12] The five ECS providers against which the Company's ECS budget is compared include five companies individually offering ECS services to their customers (id.). The average cost per ECS audit projected for MSI for FY 1996 is $140.81 (id.). For four of the remaining five ECS providers, the average cost per ECS audit ranged from $121.96 to $135.70 (id.).[13]

The Company asserted that its projected unit costs for FY 1996 compare favorably with unit costs of other providers (Exh. MSI-1, at 17). The Company further stated that understanding the differences between the way each provider allocates costs would give the most accurate picture of actual costs of the ECS program (Tr. at 8).

DOER stated that it was useful to have budget data for the ECS providers consolidated in a way that allows comparison of that data (id. at 35, 45). DOER, however, voiced concerns regarding the budget comparison (id. at 35). Specifically, DOER asserted that the budget comparison does not reflect the unique variables which comprise each providers' budget, such as allocation of costs, and ECS coordination with utility DSM programs (id. at 35-36). DOER cautioned against using the budget comparison in such a way as to reduce approved programs to

---

12 The Company submitted its ECS program provider budget comparison for program year FY 1996 in the form of a spreadsheet with eight categories of expenses listed for each ECS program provider: (1) administration/internal expenses; (2) marketing; (3) field delivery administration; (4) residential ECS FY 1996 budget; (5) ECS audit goal; (6) average cost per audit; (7) program evaluation; and (8) regulatory assessments (Exh. MSI-30).

13 For the fifth provider, Berkshire Gas Company, the average audit cost per ECS audit was $200.94 (Exh. MSI-30). See Berkshire Gas Company, D.P.U. 95-48 (1995).

the disservice of utility customers (id. at 37).

D. MSI's FY 1996 Member-Utility ECS Budget Allocation

MSI stated that its proposed total budget for FY 1996 is $4,586,424 (Exh. MSI-1, at 3). MSI developed budget allocation factors for the 1-4 unit audit program and the multifamily audit program (Exh. MSI-26). MSI allocated shares of the FY 1996 budget to the member utilities based on the proportionate number of residential customers served by each member utility relative to the number of residential customers served by all of the member utilities participating in the respective audit programs (Exh. MSI-1, at 17-18).

The allocation factor assigned to each member utility participating in the 1-4 unit program was as follows: (1) Blackstone Gas Company, 0.04485 percent; (2) Cambridge Electric Light Company, 2.05696 percent; (3) Colonial Gas Company (Cape Cod Division), 2.94154 percent; (4) Colonial Gas Company (Lowell Division), 3.41029 percent; (5) Commonwealth Electric Company, 14.70511 percent; (6) Eastern Edison Company, 9.78174 percent; (7) Essex County Company, 1.96884 percent; (8) Fall River Gas Company, 2.26943 percent; (9) Fitchburg Gas and Electric Light Company, 1.21844 percent; (10) Massachusetts Electric Company, 45.59630 percent; (11) Nantucket Electric Company, 0.37719 percent; (11) North Attleboro Gas Company, 0.15887 percent; and (13) Western Massachusetts Electric Company, 9.59768 percent (Exh. MSI-26). The remaining costs were allocated to municipal electric departments that are member utilities of MSI (id.).

The allocation factor assigned to each member utility participating in the multi-family program was as follows: (1) Bay State Gas Company, 8.13501 percent; (2) Berkshire Gas

Company, 1.00098 percent; (3) Blackstone Gas Company, 0.02969 percent; (4) Cambridge Electric Light Company, 1.36138 percent; (5) Colonial Gas Company (Cape Cod Division), 1.94683 percent; (6) Colonial Gas Company (Lowell Division), 2.25707 percent; (7) Commonwealth Electric Company, 9.73244 percent; (8) Eastern Edison Company, 6.47395 percent; (8) Essex County Gas Company, 1.30306 percent; (9) Fall River Gas Company, 1.50200 percent; (10) Fitchburg Gas and Electric Light Company, 0.50742 percent; (11) Massachusetts Electric Company, 30.17747 percent; (12) Nantucket Electric Company, 0.24964 percent; (13) North Attleboro Gas Company, 0.10515 percent; and (14) Western Massachusetts Electric Company, 6.35213 percent (id.). The remaining costs were allocated to municipal electric departments that are member utilities of MSI (id.).

IV. STANDARD OF REVIEW

In order for the Department to review a utility's proposed ECS program budget, the utility's budget filing must conform to Department regulations set out at 220 C.M.R. §§ 7.00 et seq. It also must meet the filing requirements enumerated in Mass-Save, Inc., D.P.U. 85-189, at 15-16 (1985).

After determining that a utility's ECS program budget filing conforms with these regulations and requirements, the Department must review the proposed budget for reasonableness and consistency with the state plan adopted by DOER and approve the budget in whole or with modification. G.L. c. 164 App., § 2-7(b). The Department has stated that, in general, expenses for the ECS program require the same level of justification as do other utility operating expenses. Mass-Save, Inc., D.P.U. 1531, at 11-12 (1983). These expenses must be shown to be prudently incurred and reasonable. Id. The decision-making process in the selection of contractors, the choice of marketing techniques and expenses, and the allowance made for administrative and other operating costs should be documented to demonstrate that the utility has chosen a reasonable means of meeting the program requirements at the lowest cost. Id. The utility should show that a reasonable range of options has been considered before choosing one particular contractor or plan. Id.

Further, the Department has stated that to aid in determining the reasonableness of certain proposed adjustments to test-year operating expenses in rate-case proceedings, all utilities, where possible, must provide analyses comparing these adjustments to those of other investor-owned utilities in New England. Massachusetts Electric Company, D.P.U. 92-78, at 19-20, 25-26, 30 (1992). While recognizing the obvious differences between a rate-case proceeding and an ECS budget-review proceeding, the Department has found that a comparative analysis technique is a useful tool in determining the reasonableness of certain operating expenses. Boston Edison Company, D.P.U. 93-90, at 10 (1993). Thus, as a means of determining the reasonableness of a given company's ECS operating expenses, a company must compare, where possible, its ECS operating expenses against similar expenses of other companies. The company must then explain and justify any costs to serve its customers which are higher than comparable operating expenses of other companies. The Department will consider a company's explanations and justifications in the Department's comparative analysis of ECS budgets.

After completing its review of a utility's proposed ECS expenditures for reasonableness, the Department also must review the utility's proposed ECS surcharge by which the utility is entitled to recover the full cost of the ECS program from its customers. As part of this review, the Department must examine any differences between the amounts collected and the amounts expended on the ECS program by the utility during the prior fiscal year and deduct any expenses that it finds to have been unreasonable. G.L. c. 164 App., § 2-7(f). After deducting any unreasonable expenses, the Department must ensure that the net difference is reflected accurately as an adjustment to the utility's proposed ECS surcharge for the upcoming fiscal year. Id.

Pursuant to Department precedent, MSI's FY 1996 budget filing reconciles actual and projected costs for prior fiscal years and estimated costs for the upcoming fiscal year. See Mass-Save, Inc., D.P.U. 94-81 (1994). Each member utility then calculates its pro-rata share of MSI expenses and, after receiving the Department's approval, recovers these costs through each member-utility's monthly customer surcharge. See Mass-Save, Inc. Member Utility Surcharges, D.P.U. 94-81 A through L (1994).

V. ANALYSIS AND FINDINGS

A. FY 1994 Expenses

MSI reported that, for FY 1994, its actual twelve-month expenditures were $6,333,082, as compared with its twelve-month budget of $5,964,450 (Exh. MSI-29). In Mass-Save, Inc., D.P.U. 94-81 (1994), the Department approved net operating expenses of $4,931,646 for the Company for the first ten months of FY 1994. The Company stated that there are two major reasons why expenditures for FY 1994 exceeded the budget for FY 1994 (RR-DPU-2). The first reason for the variance was that in FY 1994 the Company underwent a substantial downsizing which resulted in the provision of employee severance packages (id.). The second reason for the variance in FY 1994 was that audit demand increased unexpectedly, and MSI ended the fiscal year by delivering approximately 3,000 more audits than the number of budgeted audits (id.).

Based on our review of the record in this proceeding, the Department finds the Company's twelve-month expenditures for FY 1994 are reasonable and therefore recoverable from the ratepayers of the Company's member utilities.

B. FY 1995 Expenses

MSI indicated that, for FY 1995, its actual nine-month expenditures were $3,426,701, and its estimated expenses for the final three months of FY 1995 are $1,021,457 (Exh. MSI-16). The Company therefore projected total FY 1995 expenditures of $4,448,159 (id.). Included with the Company's FY 1995 expenses was an explanation of its marketing expenditures for FY 1995, in which the Company stated that it has concentrated its marketing activities to Department-required mailings and telemarketing presentations (Exh. MSI-15).

The Company indicated that its operation costs will be approximately $236,000 below the net operating budget of $4,684,503 approved by the Department in D.P.U. 94-81 for FY 1995 (Exh. MSI-1, at 11). In addition, the Company asserted that the projected total cost for ECS in FY 1995 compares favorably with historical MSI expenditures (id. at 12). The Company attributed these results to a reduction in costs and improved productivity (id.). The Company asserted that its goal is to deliver ECS on a least-cost basis, while maintaining quality and service (id.; Tr. at 17). The Company provided a justification for all budget line-items which varied by more than $2000 from the budget approved in Mass-Save, Inc., D.P.U. 94-81 (1994) (Exh. MSI-17).

The Company has provided a complete explanation of its expenditures for the first nine months of FY 1995 (Exhs. MSI-16; MSI-17). The Department finds the Company's expenditures of $3,426,701 to be reasonable for this nine-month period and, therefore, recoverable from ratepayers. The Department will review the Company's actual expenditures for the final three months of FY 1995 in the next annual budget review.

C. Proposed Budget for FY 1996

The Company submitted a detailed description of the components, goals and anticipated expenses for its 1-4 Unit and MFB ECS audit programs for FY 1996 (Exhs. MSI-1, at 14-17; MSI-16). MSI's projected budget for FY 1996 is $4,586,424 (Exhs. MSI-1, at 17; MSI-16). The Company also provided documentation, and DOER confirmed, that the Company's UIP for FY 1996 had been approved by DOER (Exhs. MSI-2; DOER-1, at 3). DOER indicated, furthermore, that the budget proposed by MSI is consistent with the Company's approved UIP and program objectives for FY 1996 (Exh. DOER-1, at 4).

The Department notes that the Company's filing adequately identifies a cost element for each goal and component of its UIP. In addition, the Company has provided an explanation of the budget expenditures, all of which were listed by line-item account (Exh. MSI-16). Furthermore, the Company included a comparison of its filing with Department filing requirements (Exh. MSI-31). Therefore, the Department finds that the Company's budget filing conforms with the Department's regulations and ECS budget filing requirements.

The record indicates that the line-item budget expenditures proposed by the Company to meet its FY 1996 goals are reasonable. In addition, the record shows that MSI has documented its decision-making process for choice of marketing techniques and expenses, and that these expenditures are reasonable.[14] Further, the Company's comparative analysis shows that the Company's projected cost per audit is $140.81, and that the Company's FY 1996 ECS-budgeted expenses per audit appear comparable to those of other ECS providers.[15]

Accordingly, based on our review of the record, we find that a net operating budget of $4,586,424 for FY 1996 is reasonable. The Department will review the actual FY 1996 expenditures in the next annual budget review.

---

14 MSI did not include a justification of contractor selection because the Company indicated that it did not have existing or pending contractor agreements (Exh. MSI-31).

15 The Department encourages companies to analyze their own costs in relation to other companies' similar costs, in order to gain a better understanding of how competitively priced their given energy services, including ECS, are, and to make whatever changes are necessary to become more competitively priced in the future.

VI. ORDER

Accordingly, after due notice, hearing and consideration, it is

ORDERED: That net operating expenses of $6,333,082 are approved for Mass-Save, Inc. for the period July 1, 1993 through June 30, 1994; and it is

FURTHER ORDERED: That net operating expenses of $3,426,701 are approved for Mass-Save, Inc. for the first nine months of the period July 1, 1994 through June 30, 1995; and it is

FURTHER ORDERED: That a net operating budget of $4,586,424 is approved for Mass-Save, Inc. for the period July 1, 1995 through June 30, 1996.

By Order of the Department,

____

Kenneth Gordon, Chairman

____

Mary Clark Webster, Commissioner

____

Janet Gail Besser, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).